

REMARKS

Claims 9-15 and 17-18 are pending the application; Claims 9-15 and 17-18 stand rejected. By this Amendment Claim 18 has been cancelled and Claims 12 and 13 have been amended. These amendments and new claims add no new matter to the application.

Claims 9-15 and 17 stand rejected under 35 USC 102 over Kuznicki; Applicant respectfully traverses these rejections. Kuznicki discloses a beverage composition (much like gatorade) specifically addressed to the matter of "dehydration relative to water in individuals" and "rapid cellular hydration" that contains, in addition to flavanols, many other ingredients, such as electrolytes and carbohydrates. The disclosures of Kuznicki are not directed to therapeutics for diseases of any sort. The cognitive improvement disclosed is not any kind of therapeutic to a pathological condition, but rather a remedy to the fuzziness of thought that typically accompanies dehydration in some individuals. This is no kind of teaching of suggestion that such a mixture would have any effect at all on the kind of cognitive impairment that accompanies Alzheimer's disease.

Kuznicki does NOT address any kind of general cognitive improvement with his formulation, but rather a very specific "increased cognitive performance after heat dehydration" addressed apparently to that well-known phenomenon of specific mental fuzziness upon significant dehydration. The kind of restoration of mental freshness attendant upon a proper rehydration of the body's cells after exercise, bears no relation whatever to cures for any of the kinds of cognitive impairments that occur in the claimed therapeutic areas, either pathologically or in any other physical or chemical sense. At col.3, lines 36-37 (right after the location cited by the Examiner) Kuznicki actually specifies that the improvements disclosed are believed to be related to the flavanols' effect simply in enhancing cellular rehydration. It may be seen thus that the Examiner

has given import to a few words out of context of the whole discussion in Kuznicki. There is therefore no basis whatever to suppose that a drink of Kuznicki's beverage would have any effect, inherently or otherwise, on any of the conditions claimed. Therefore, Kuznicki neither teaches nor suggests a therapeutic for the claimed conditions, and the claims are thus distinguished over the cited art. Reconsideration is requested.

New Claim 17 is especially distinguished over the cited art by substituting the words "consisting of" for the word "comprising" in original claim 1. Thus Claim 17 can not be read upon the formulations of Kuznicki because those formulations have ingredients other than catechins and excipients and the like. The Examiner's assertion that the reference discloses a composition having the same ingredients in the same amount therefore does not apply to Claim 17 and it is therefore distinguished over the cited art because the cited art teaches that catechins solutions are to contain a number of other additives; Claim 17 is believed to be in condition for allowance, and reconsideration is especially urged.

Claims 9, 12-15 and 17 stand rejected under 35 USC 102 over Mitsui Norin JP patent 10245342 of record; Applicant respectfully traverses these rejections. Mitsui Norin discloses only a toxicity diminishing effect on beta-amyloid protein; there is no discussion or suggestion of any effect on fibrillogenesis of amyloid or alpha-synuclein or NAC fibrils. Applicant respectfully submits that, at the time of the priority date of these claims, reducing toxicity had no established connection in the art to inhibiting or reversing fibril or plaque formation, and there is also no basis in the art of that time to establish or predict any degree of inherency. Specifically, there is no way to tell with any certainty that a formulation proposed by Mitsui Norin to reduce amyloid toxicity would also and at the same time necessarily have the effect of inhibiting or reversing amyloid fibrillogenesis, much less alpha-synuclein or NAC fibrillogenesis.

This is especially the case with Claim 17 which is specifically directed to a composition "consisting of", i.e. limited to, the recited ingredients. As with Kuznicki above, Claim 17 cannot be read upon Mitsui Norin, and is therefore believed to be allowable.

Claims 9 and 12 stand provisionally rejected as allegedly subject to obviousness-type double patenting. Applicant submits in response that it will file the appropriate terminal disclaimer upon an indication of allowable subject matter in this case.

Applicant believes that it has responded fully to all of the concerns expressed by the Examiner in the Final Action, and respectfully requests that new Claims be entered and examined, and that early favorable action be taken on all claims pending in the application. Applicant respectfully requests reexamination of all rejected claims and early favorable action on them as well. If the Examiner has any further concerns, Applicant requests a call to Patrick Dwyer at (206) 343-7074.

Respectfully submitted,



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